IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

CRP.No. 1121 of 2004()
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OPEA.76/2003 of ADDL.DISTRICT COURT,KOTTAYAM
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REVN. PETITIONER/RESPONDENT IN OP:
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THE KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVAN,
THIRUVANANTHAPURAM.

BY ADV. SRI.N.D.PREMACHANDRAN, SC, KSEB

RESPONDENT/PETITIONER IN OP:
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K.A.DOMINIC, S/O.ABRAHAM,
AGED 67 YEARS, KALLOOKULANGARA HOUSE,
MANNARAKAYAM, CHIRAKKADAVU VILLAGE.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**M.N. KRISHNAN, J.**

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**C.R.P.NO.1121 OF 2004**

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**Dated this the 28th day of November, 2007.**

**O R D E R**

This revision petition is preferred against the order of the Additional District Judge, Kottayam, in E.A.O.P.No.76/2003 whereby the court had passed an award enhancing the compensation by Rs.31,691/=. It is against that decision, the present revision petition is preferred. Paragraph 9 of the order would show that the court below has relied upon the decision of the Full Bench reported in **Kumba Amma v. K.S.E.B** (2000 (1) KLT 542). This matter came up for consideration before the Apex Court and the Apex Court had remitted back all the matters for a fresh consideration holding that each case has to be decided on the facts and circumstances of the case. The Apex Court in the decision reported in **K.S.E.B v. Livisha** ( 2007(3) KLT 1 SC) held that:

> "The situs of the land, the distance between the high voltage electricity line laid there over, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would

> also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same w as meant to be use. So far as the compensation in relation to fruit bearing trees are concerned, the same would also depend upon the facts and circumstances of each case."

So, in the light of the aforesaid decision, it may be necessary to have additional documentary and oral evidence to substantiate the claim of the parties. Therefore, I set aside the order passed by the court below and remit the matter to the court for a fresh consideration in the light of the enunciated principles referred to in the decision and dispose of the matter in accordance with law. I make it clear that 50% of the amount deposited by K.S.E.B at the time of stay can be withdrawn by the claimants in the case. The court below must try to dispose of the matter as expeditiously as possible.

**M.N. KRISHNAN, JUDGE.**

**cl**